

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
NEW YORK BRANCH OFFICE**

CHICAGO REGIONAL COUNCIL OF CARPENTERS

and

Case No. 13-CB-19310

**LOCAL UNION NO. 363 OF THE UNITED BROTHERHOOD
OF CARPENTERS AND JOINERS OF AMERICA**

and

**LOCAL UNION NO. 916 OF THE UNITED BROTHERHOOD
OF CARPENTERS AND JOINERS OF AMERICA**

and

**LOCAL UNION NO. 250 OF THE UNITED BROTHERHOOD
OF CARPENTERS AND JOINERS OF AMERICA**

Respondents

and

**ILLINOIS FRAMING, INC.
Charging Party**

Vivian Perez-Robles, Esq., Counsel for the General Counsel.
Christina Lopez-Nutzman, Esq., Smith Amundsen, Counsel for the Charging Party.
Travis Ketterman, Esq. and Raymond Sanguinetti, Esq., Whitfield, McGann & Ketterman,
Counsel for the Respondents.

DECISION

Statement of the Case

Joel P. Biblowitz, Administrative Law Judge: This case was heard by me on May 12, 2010 in Chicago, Illinois. The Amended Complaint herein, which issued on April 19, 2010, was based upon an unfair labor practice charge and an amended charge that were filed by Illinois Framing, Inc., herein called the Employer, on November 5, 2009¹ and January 27, 2010. The Complaint alleges that Chicago Regional Council of Carpenters, herein called the Regional Council, Local Union No. 363 of the United Brotherhood of Carpenters and Joiners of America, herein called Local 363, Local Union No. 916 of the United Brotherhood of Carpenters and Joiners of America, herein called Local 916, and Local Union No. 250 of the United Brotherhood of Carpenters and Joiners of America, herein called Local 250 and, at times, collectively called Respondents and/or the unions, violated Section 8(b)(1)(A) of the Act by filing and pursuing internal union charges against August Anselone III, Daniel Bulgrin, and Gerald Heinle, Jr. because each of them had worked behind the Respondents' picket line and for an employer

¹ Unless indicated otherwise, all dates referred to herein relate to the year 2009.

who was not a signatory to an agreement with the Respondents. The Complaint further alleges that, as a result of these internal union charges, on October 6, the Regional Council imposed a fine of \$170,800 on Anselone and on December 22 it issued a letter of reprimand against Heinle for working behind the Respondents' picket line and for an employer who was not a signatory to an agreement with the Respondent, also in violation of Section 8(b)(1)(A) of the Act.

Respondents' Answer admits that the Regional Council voted to impose a fine against Anselone for violations of the Carpenters' Union's Constitution and the Regional Council Working Rules, and that it sent a letter of reprimand to Heinle for violating the Carpenters' Union's Constitution and the Regional Council Working Rules, stating that no further action will be taken against Heinle.

I. Jurisdiction

The Complaint alleges and the Respondent admits, that the Employer has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act. In about December the Employer ceased operations.

II. Labor Organization Status

The Complaint alleges, and I find, that the Regional Council, Local 363, Local 916, and Local 250 are each labor organizations within the meaning of Section 2(5) of the Act.

III. The Facts

Anselone joined Local 62 of the Carpenters Union in 1990 and remained a member until, at least, January 2009. He began working for the Employer, a nonunion contractor, as a superintendent on February 2, 2009. For the prior thirteen months he was unemployed. He worked for the Employer until December 18, 2009, when it went out of business. Anselone testified that prior to beginning his employment with the Employer, he went to the Local 62 office on January 13 and asked the office secretary what he had to do to resign his membership. She wrote his name on an Honorary Resignation Affirmation form and gave it to him. She told him that he had two years to pay his dues if he wished to do so or he could pay the back dues after twenty four months. Anselone told the secretary that he would return in a day or so after he thought about it. After leaving the union office, he completed the Honorary Resignation Affirmation form and returned to the union office on January 15, at which time he returned the completed form to the same secretary who had given it to him two days earlier. Although he completed and turned in this form, Anselone paid quarterly dues of about \$80 to the union on January 12, April 30 and August 30, so that his union dues were paid through September 30. During this period, and to the present time, he has continued to receive union newsletters and mailings. As to why he continued to pay dues even after considering himself no longer a member of the union beginning on January 15, he testified:

The secretary instructed me that there was a 24 month time period that I could choose to pay my dues if I wanted to for 24 months while I was resigned in order for me not to have to pay any back dues when I decided to come back into the union after 24 months. That's how she explained it to me.

Margaret Rutledge, who has been employed by Local 62 as a secretary for in excess of three years, testified that there are three ways in which members could terminate their membership in the union: they would be suspended from membership for the nonpayment of dues for a period of six months, they could write a letter of resignation, or complete an honorary withdrawal form. The advantage of an Honorary Withdrawal is that the individual can resume his

membership within two years, and, if he pays his back dues for those two years, he maintains his original seniority date. On the other hand, he can choose to not pay his back dues. In that case, he is again a union member, but with a new seniority date. She testified further that Ultra is the computer software program that the Respondents use to track members' union status, as well as their dues records. If a member stopped paying his union dues, that would be reflected in Ultra; if the member were behind for in excess of six months, the member would be listed as suspended on Ultra. If the member submitted a resignation letter, Ultra would list him as resigned. If the member submitted an Honorary Withdrawal, the program would list him as withdrawn. Employees in each of these categories would no longer be considered members of the union.

Rutledge testified further that she collects, and processes, the dues for the union, and if the computer stated that an employee had resigned or filed an Honorary Withdrawal, and that individual sent his dues to the union, the computer would not accept the dues and she would return the dues to the individual. She also testified that a file is maintained for each member, and if she received a resignation or an Honorary Withdrawal from a member, that would go into his file. She reviewed Anselone's file maintained by Local 62 and it contained neither a resignation nor an Honorary Withdrawal form. Further, the union's records state that Anselone paid union dues on January 12, April 30 and August 3. If he had turned in an Honorary Withdrawal form or a resignation to the union, the computer would not have accepted, at least, the last two of these payments.

Bryan Long, who has been a member of Local 916 for eighteen years, and has been employed by the Regional Council as a business representative/organizer for in excess of nine years, testified that the first time he saw the Honorary Resignation Affirmation completed by Anselone, and dated January 15, was at the Regional Council's trial board hearing, involving Anselone, on September 10. Larry Perinar, who has been employed by the Regional Council for six years as an agent/organizer, testified that on the occasions when he spoke to Anselone at the Employer's job sites after January 15, Anselone never told him that he had withdrawn, or resigned from, the union. During February and March the Respondents picketed Blackberry Crossing, herein called Blackberry, where the Employer was performing work with Anselone, Heinle, Bulgrin, and other employees. Anselone testified that in March, while he was working at Blackberry, he and another union member Tom Morey, were approached by Long and Perinar, who asked them what they were doing. Long told them that they could be brought up on charges because what they were doing was against the union by-laws and they should pack up and leave, and Anselone responded that the union had no work for them and that they had to provide for their families. The conversation ended by Anselone saying, "You guys do what you've got to do and we'll do what we've got to do." Anselone testified that Long and Perinar never asked him in this conversation if he had resigned, or withdrawn from, the union, nor did he tell them that he had resigned, or withdrawn from the union.

Long testified that he and Perinar saw Anselone and Morey working at Blackberry on March 3. Anselone said that they were working for the Employer in order to support their families, and Long pointed to the pickets who chose to stick with the union rather than work for a nonunion employer. Long told them that if they continued working for the Employer charges could be brought against them. Perinar, likewise, testified that he was with Long on March 3 when he saw Anselone and Morey at Blackberry, performing carpentry work for the Employer. They introduced themselves and told Anselone and Morey that they were working for a nonunion employer, which was a violation of the Respondents' Constitution. Anselone said that work was slow and that he had to provide for his family; he would quit right now if the union could find him a job. They told Anselone and Morey that if they continued to work for the Employer, they would have to prepare charges against them, and Anselone said that he had to

provide for his family.

In about mid-March, Anselone received a letter dated March 10 from Daniel McLaughlin, business representative/organizer for Local 363, stating that charges were being filed against him for violations of the Respondents' Constitution, By-Laws and the Working Rules of the District Council. The violations involved working for the Employer, a nonunion firm, and working behind a picket line. By letter dated March 30, signed by Long, he received Amended charges, adding to the prior charges that he directed the work of nonunion carpenters, attempted to convince union carpenters to perform nonunion work, and cursed at the union pickets. By identical letters dated May 6 from Jeffrey Isaacson, first vice president of the Regional Council, Anselone was informed that charges were filed against him and they were attached. The letter stated that a hearing would be held before the sub-committee on June 2 at 10:00 at the Regional Council.:

Formal trial of these charges by the Trial Committee is in abeyance pending examination by this committee. If you feel the charges are not warranted or should there be extenuating or conditional circumstances pertaining to the alleged violations, you should appear before this committee at the above date.

Anselone went to the meeting. He recognized Long, McLaughlin and Isaacson; three or four other representatives were there, but he didn't know them. After the charges were read, Anselone was given an opportunity to speak. He said that while he agreed with some of the charges, he resigned from the union on January 15, before he started working for the Employer. He handed them a copy of his Honorary Resignation Affirmation and copies were made and were given to everybody. They asked him why he was working nonunion, and he said that he had been unemployed for thirteen months and ran out of options. He had to support six children so he had no other choice. The next letters that Anselone received from the union were identical letters dated July 15, stating that there would be hearings on August 1 and September 10; Anselone attended both. He testified that these two latter hearings were basically the same as the first meeting. They each lasted about ten to twelve minutes; the charges were read and he was asked to explain the situation, which he did. Anselone repeated that he resigned from the union before beginning work for the Employer. He was told that they didn't know that, and Anselone said that at the first hearing he gave them his resignation letter. He next received two identical letters from the Regional Council dated September 14, stating that the charges against him were reviewed by the Trial Board Committee, which would make its recommendation to the Regional Council's Delegate Body on October 3, and that he had the right to be present when they vote on the charges. He did not attend the October 3 meeting.

By two letters dated October 6 from the Regional Council, Anselone was told that he was expelled from the unions and fined the sums of \$93,950 and \$76,850, payable to the Regional Council. By letter dated December 21, counsel for the Regional Council wrote to Anselone reiterating that he owed \$76,850 in fines. Anselone testified that, to date, he has paid neither the \$76,850 fine nor the \$93,950 fine.

Long testified that after charges were filed against Anselone, he checked the union's Ultra software computer program on a number of occasions to determine whether he was still a member in good standing and, on each occasion, he found that he was. After Anselone alleged that he had withdrawn from the union prior to beginning work for the Employer, Long checked the union records and could find no record of a withdrawal by Anselone. One aspect of Long's testimony is confusing. On direct examination, he was shown Anselone's Honorary Resignation Affirmation and was asked whether he saw it at the trial board hearing in September. He answered no. On cross examination, he was shown the same document and he testified that

the first time that he saw it was at the trial board hearing in September.

McLaughlin testified that prior to the hearings involving Anselone, he called Local 62 to ask what his membership and dues status was; he was told that he was an up to date member. Rutledge did not say anything about Anselone resigning or withdrawing from the union. He testified further that at the June 2 hearing Anselone "...did say something that he had resigned." One of the other union representatives asked Anselone for documentation to establish that he had resigned, and McLaughlin testified: "I did not see any document." At the following hearing, on September 10, Anselone did have documentation with him to support his statement that he had resigned from the union. When shown Anselone's Honorary Resignation Affirmation, he testified that he did not see that document. Anselone may have produced the document, but it was taken by Isaacson.

Heinle became a member of Local 916 in 1993. He began working for the Employer on April 1 and worked there through November. For a year prior to April 1 he was either unemployed or working outside of the industry. He testified that on about November 1, 2008 both he and his wife were unemployed and he was unable to find work, so his wife, Jane, called Local 916 for him to ask how he could withdraw from the union and get out of paying his dues. The woman she was speaking with said that Heinle should send a letter to the union requesting a withdrawal from the union from paying dues. A few days later, they received a letter from the Local 916 secretary, Courtney Mainka, stating, *inter alia*:

Re: Honorary Resignation Affirmation

In order for a carpenter to take an Honorary Withdrawal, he/she must be paid up to the end of the current month he/she is requesting the withdrawal in. He/she must complete the enclosed form and include a signed and dated letter advising the local the reason for your withdrawal and advising the local that you will no longer be working as a carpenter.

From the date of withdrawal, the carpenter has 24 months to reinstate his/her union membership by paying his/her back dues.

If more than 24 months goes by, the carpenter must re-initiate back into the union. This includes receiving a new initiation date after being sponsored in by a union employer and paying the initiation fees.

At the bottom of the letter, Mainka wrote that Heinle is currently paid through September 2008, and to withdraw in November he should pay \$52 by November 25, 2008, \$78 by December 29, 2008, and \$26 for each month thereafter. Attached to the letter was a blank Honorary Resignation Affirmation. Heinle filled out part of the form, but never completed it, never sent it to the union, and continued to pay his union dues. Prior to Heinle starting work for the Employer on April 1, his wife again called Local 916 to ask how he could withdraw from the union and stop paying dues. She was told that Heinle would have to send a letter to the union requesting to stop paying dues. Shortly thereafter, they received a letter identical to the earlier letter from Mainka, but undated and without the handwritten notes that were on the bottom of the earlier letter. Attached to Mainka's letter was another Honorary Resignation Affirmation. This time, he and his wife filled out this affirmation, and Heinle signed it and dated it March 25. In addition to the affirmation, Heinle wrote the following note to Local 916: "I Jerry Heinle am filing for withdrawal as both my wife and I are unemployed. I don't want to fall behind on my dues as I would like to stay in good status with the union." The letter is signed and dated March 25. His wife mailed this letter and the Affirmation to Local 916. Shortly thereafter, somebody from the union called and spoke to Heinle's wife and told her that he had to write on a piece of paper that

he wanted to withdraw from the union. On March 29 he handwrote a note to the union: "I Jerry Heinle am filing for withdrawal. Am no longer working carpentry & finding other employment." It is signed and dated and his wife hand delivered it to the union on either March 29 or 30. Heinle testified that sometime thereafter, he received a withdrawal card from the union (which he cannot locate) and stopped paying dues to the union.

Heinle testified that in September, while he was working at Blackberry for the Employer, Long approached him at the job and asked him if he was a member of the union and he said that he wasn't. A few weeks later, Heinle paid his back dues to Local 916 so that he would be current in his dues. By letter from Isaacson dated October 6, Heinle was notified that charges had been filed against him for violation of the Constitution, and that a hearing on the charges would be held on October 20. Attached were charges filed against him by Long, alleging violations of the Constitution, the By-Laws and Work Rules, including working for a nonunion contractor, and refusing to cooperate with union representatives. Heinle did not attend the October 20 hearing. He received a letter dated December 22 from Isaacson stating, *inter alia*:

Based upon the investigation of the charges brought against you, the Executive Board of the Chicago Regional Council of Carpenters has found that you have violated the provisions of the Constitution of the United Brotherhood of Carpenters and Joiners of America and the Regional Council Bylaws.

Pursuant to Section 52D of the Constitution, this correspondence represents and [sic] official Letter of Reprimand which will be made part of the record of your local union and the Regional Council.

The Executive Board has decided not to assess a monetary fine or penalty against you for these violations. However, this reprimand shall become part of your permanent record as a member of the union and may be referenced in the event that violations are brought against [sic] for future conduct.

Bulgrin has been a member of Local 344, located in Milwaukee, Wisconsin, since January 2001. He had been employed by NDA Systems, herein called NDA, since 1996. In January 2001 NDA became a unionized employer and, at that time, he joined Local 344. He remained employed by NDA until March 4, when it "ran out of work." About a month prior to the end of his employment with NDA he was the only employee left there and seeing that his employment was coming to an end, he went to the Local 344 union hall and obtained a list of all union contractors in the area and faxed his resume to each of these contractors. Receiving no response, he then called every contractor on the list and was, again, unable to obtain employment. On March 9, he received a telephone call from the former owner of NDA, who said that he was working for the Employer and that Bulgrin could start working the following day for the Employer if he wanted to work with him. He began working for the Employer on March 10.

On March 9, at about noon, Bulgrin called the Local 344 office and asked the woman who answered the phone what he had to do to withdraw from the union.² She asked why, and he said that he had lost the job that he had for thirteen years and had called all of the unionized employers in the area, but was unable to obtain work, and that it looked like he would have to work outside the union. She told him that he could not withdraw from the union if he was going

² In answer to a question from counsel for the Respondent as to whether he ever attempted to resign from the union prior to March 18, 2010, Bulgrin testified: "No, I didn't. I attempted to withdraw...I didn't know there was a difference."

to be employed in the trade, but outside the union. He told her that he thought that he needed to withdraw from the union if he was going to work nonunion. She repeated that he couldn't withdraw if he was going to work for nonunion companies in the industry, and he asked her to send him the withdrawal form. He testified that his intention in making this call was "to get out of the union" because there was a good chance that he would be working nonunion. A few days later he received an Honorary Resignation Affirmation. He read the form and the first sentence states: "I truthfully affirm that I am leaving the industry, including all types of craft work covered by the United Brotherhood of Carpenters and Joiners of America." He testified that "...I didn't want to sign a lie..." so he never signed the Affirmation.

He testified that on his second or third day of employment with the Employer at the Lancaster Falls jobsite, herein called Lancaster, Joe Heilgeist, business representative for the Regional Council, called his name and yelled to him, "Hey, cheese head, go back to where you came from." After that, Heilgeist yelled at him on almost a daily basis. In about May, Heilgeist called him on his cell phone, asking him questions about his pay rate for the Employer and what benefits he received. He asked Bulgrin for his pay stub, which he refused to give him, and told him not to go to work the following day. In June, two men wearing union shirts came to his home and asked him if he was employed by the Employer and he said that he was, asked him his hourly rate of pay, and he told them he was paid \$30 an hour, asked him about benefits and they left. By letter to Bulgrin dated June 18, Isaacson wrote that charges had been filed against him for violation of the Constitution, and trade rules, and that a hearing would be conducted on July 7. Attached to Isaacson's letter was a letter from Heilgeist to Isaacson dated June 1 preferring charges against Bulgrin for violations of the Constitution, the By-Laws and Work Rules of the Regional Council. These charges include working for a nonunion employer and refusing to provide information to a business representative of the union. Bulgrin attended the July 7 hearing; the only union representative whom he knew was Heilgeist. Somebody read the charges and asked him if he agreed with them. He admitted that he worked for the Employer, but did not agree that he refused to give information to the union. He also said that he called the Local 344 office on March 9 to ask how to withdraw from the union. At the conclusion of the hearing they told him that they would send him a decision in one or two weeks. He never received the decision. The next letter he received was a letter dated January 26, 2010 from Isaacson saying that a hearing on the charges pending against him would take place on February 6, 2010. He received another letter from Isaacson dated February 4, 2010 stating that the hearings scheduled for February 6 and 11, 2010 were indefinitely continued pending the instant NLRB proceeding. On March 18, 2010, Bulgrin wrote to Local 344: "This is to inform you that I resign from the Union effective on your receipt of this letter."

Heilgeist testified that he first met an individual he later learned was Bulgrin at Lancaster in mid-March. Heilgeist asked him to roll down his car window so that they could speak, but Bulgrin refused to do so. He later spoke to Bulgrin, who admitted that he was employed by the Employer. He later filed the charges against Bulgrin after checking the union's Ultra software program which stated that he was still a member of the union. Respondent introduced into evidence Bulgrin's membership record from Ultra. Among other entries, it states: "WITHDRAWAL FORM SENT TO MEMBER 3/17/09 KLR." Heilgeist testified that he did not have access to the Local 344 records and, prior to filing the charges, he did not request such records from Local 344 to determine whether Bulgrin had resigned, or requested to resign from the union. He further testified that prior to May 2010 he had no knowledge that a withdrawal form was sent to Bulgrin in March. On cross examination, he was asked whether Bulgrin said anything at the July 7 hearing about resigning, or withdrawing, from the union; he testified: "Not that I remember."

IV. Analysis

The allegations regarding Anselone are that Local 363, by McLaughlin, and Local 916, by Long, each violated Section 8(b)(1)(A) of the Act by filing and pursuing charges against Anselone because he worked behind a union picket line and because he worked for the Employer, a nonsignatory to an agreement with the union. It is further alleged that the Regional Council violated Section 8(b)(1)(A) of the Act by imposing a fine of \$170,800 on Anselone for the same offenses. It is also alleged that Local 250, by Long, violated Section 8(b)(1)(A) of the Act by filing and pursuing charges against Heinle because he worked behind a picket line for the Employer, a nonsignatory to an agreement with the union and likewise violated Section 8(b)(1)(A) of the Act by issuing a letter of reprimand against Heinle for working behind a union picket line and working for the Employer, a nonsignatory to an agreement with the Employer. Finally, it is alleged that Local 250, by Heilgeist, violated Section 8(b)(1)(A) of the Act by filing and pursuing charges against Bulgrin because he worked behind a picket line for the Employer, a nonsignatory to an agreement with the union.

In *Scofield v. NLRB*, 394 U.S. 421, at 429 (1969), the Court stated: “Section 8(b)(1)(A) leaves a union free to enforce a properly adopted rule which reflects a legitimate union interest, impairs no policy Congress has imbedded in the labor laws, and is reasonably enforced against union members who are free to leave the union and escape the rule.” Citing *Scofield*, in *NLRB v. Granite State Joint Board*, 409 U.S. 213 (1972), the Court stated, at 215: “...when a member lawfully resigns from the union, its power over him ends.” The Court stated further, at 218: “Where a member lawfully resigns from a union and thereafter engages in conduct which the union rule proscribes, the union commits an unfair labor practice when it seeks enforcement of fines for that conduct. That is to say, when there is a lawful dissolution of a union-member relation, the union has no more control over the former member than it has over the man in the street.” In *International Brotherhood of Teamsters, Local Union 492 (United Parcel Service, Inc.)*, 346 NLRB 360, 363 (2006), the Board, citing *Machinists, Local 1414 (Neufeld Porsche-Audi)*, 270 NLRB 1330 (1984) and *Pattern Makers League v. NLRB*, 473 U.S. 95 (1985), stated: “The Board has held that Section 7 affords employees the right to resign from union membership at any time, and that this right cannot lawfully be restricted by the union. Accordingly, when an employee resigns his union membership, the union must promptly give effect to the resignation.”

The initial issue is whether Anselone, Heinle and/or Bulgrin did that they were legally obligated to do in order to resign from the Union, or attempt to resign from the union, before beginning their employment with the Employer. The credible, and generally uncontradicted testimony, establishes that Anselone, Heinle and Bulgrin individually attempted to end their relationship with the Respondents, whether it is called a withdrawal or a resignation, prior to beginning work for the Employer, all without success. Anselone testified that he asked the Local 62 secretary what he had to do to resign his membership in the union, and she gave him an Honorary Resignation Affirmation. While presenting no evidence to contradict Anselone’s testimony, Respondents witnesses testified that they have no record of any resignation by him. The uncontradicted and credible testimony of Gerald and Jane Heinle establishes that she called Local 916 and asked the secretary how he could withdraw from the union and get out of paying dues. She replied that he should write a letter to the union requesting a withdrawal from the union from paying dues, and she sent him a letter explaining Honorary Resignation Affirmations, with one attached. Prior to beginning work for the Employer, Heinle’s wife again called Local 916 and again asked how he could withdraw from the union and stop paying dues. The secretary told her that he would have to send a letter to the union requesting to stop paying dues and she sent them another Honorary Resignation Affirmation. Heinle completed this

Affirmation and sent it to the union with a note stating that he was unemployed and was filing for withdrawal from the union because he didn't want to fall behind in his dues and would like to stay in good status with the union. After receiving a call from the union saying that he would have to notify the union that he wanted to withdraw, he wrote to the union that he wanted to withdraw as he was no longer performing carpentry work and was looking for other employment. Bulgrin's uncontradicted and credible testimony together with his membership record maintained by the Respondents establishes that he called Local 344 to learn what he had to do "...to get out of the union." He asked the secretary what he had to do to withdraw from the union. (He did not know the difference between withdrawing and resigning.) When she asked him why he wanted to withdraw, he told her that he was unemployed, was unable to find work within the union, and that it appeared that he would have to work outside the union. She told him that he could not withdraw if he was going to be employed in the trade, but outside the union. He asked her to send him the withdrawal forms, which she did. When he saw that the first sentence of the Honorary Resignation Affirmation states that he is leaving the industry, he did not sign it because it was a lie.

Each of them made it clear, as best as they could, that they wished to leave the union, whether it is properly referred to as a resignation or a withdrawal. Counsel for the Respondents, in his opening statement, said that there are three ways that union members can validly leave union membership:

The one is to resign in writing. It doesn't matter whether it's on a napkin or a piece of nice letterhead. If you resign you have left your union membership immediately. The second option is to stop paying dues. After six months the time will take care of itself. You'll be suspended and you won't be a member of the union. And the third option is...this honorary withdrawal.

If the Respondents had properly educated the secretaries at their offices of these three choices, Anselone, Heinle and Bulgrin would have written a proper resignation letter to the union and there would have been no need for the instant proceeding. Instead, Anselone, Heinle and Bulgrin were only told of, and given, an Honorary Resignation Affirmation, which clearly was not relevant for them as they were preparing to begin employment with the Employer. The extent of the confusion within the Respondents of the resignation procedures is evident by the fact that Rutledge, Mainka, the Local 344 secretary and counsel for the Respondent each referred to the Honorary Resignation Affirmation as an honorary withdrawal.

The Board has long held that that unions have a fiduciary duty to deal fairly with its members by informing them of the proper manner of resigning their union membership. *Building Material & Dump Truck Drivers Local 36 (Strong Building Materials)*, 266 NLRB 1057, 1060 (1983); *Local 441 Electrical Workers (Phelps Dodge)*, 281 NLRB 1008, 1012 (1986). Clearly, the Respondents have not satisfied this duty. The Board has also consistently held that no particular words are required in order to resign from the union as long as the individual's intent is clear. "...the intention to resign may be made in any feasible way and no particular form or method is required." *Machinists Local 758 (Menasco, Inc.)*, 275 NLRB 755, 761 (1985). "There is no requirement that an employee use any magic words in order to effectively resign membership from the union." *Shopmen's Local 539 (Zurn Industries)*, 278 NLRB 149, 151 (1986); "...employees may communicate their resignations from a union in any feasible way and that no particular form or method is required, so long as they clearly indicate to it that they no longer wish to remain members of it." *Local 340 Potters (McComb Pottery)*, 175 NLRB 756, 760 (1969); "...it is only necessary that he 'clearly indicate that he no longer wishes to be bound by the union.'...Further, inartful demands to 'withdraw' from the union have been found by the Board to be sufficient on the ground that they clearly conveyed the intent to resign." *Electrical*

Workers IBEW Local 340 (Hulse Electric), 273 NLRB 428, 433 (1984). I find that Anselone, Heinle and Bulgrin satisfied these requirements by clearly conveying to the union secretaries their desire to terminate their union memberships. Either these secretaries were unaware of the proper means of resignation from the union or they purposely transmitted the incorrect information to Anselone, Heinle and Bulgrin. Either way, the Respondents did not satisfy their obligation to properly notify members of the means of resignation. Further, in *Scofield, supra*, the Court found that unions are free to adopt rules governing its members as long as the members are free to leave the union and escape the rules. By telling Anselone, Heinle and Bulgrin that the only way they could leave the unions was by completing an Honorary Resignation Affirmation, which was clearly not appropriate for their purposes, the Respondents did not satisfy its obligations to its members.

Conclusions of Law

1. Respondents Local 363 and 916 violated Section 8(b)(1)(A) of the Act by filing and pursuing internal union charges against August Anselone III on about March 10, 2009, and the Regional Council violated Section 8(b)(1)(A) of the Act by imposing a fine of \$170,800 on Anselone on about October 6, 2009.

2. Respondent Local 916 violated Section 8(b)(1)(A) of the Act by filing and maintaining internal union charges against Gerald Heinle, Jr., on about September 24, 2009, and the Regional Council violated Section 8(b)(1)(A) of the Act by issuing a letter of reprimand to Heinle on about December 22, 2009.

3. Respondent Local 250 violated Section 8(b)(1)(A) of the Act by filing and maintaining internal union charges against Daniel Bulgrin on about June 1, 2009.

Remedy

Having found that the Respondents have engaged in certain unfair labor practices, I recommend that they be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act, including the rescission of the internal union charges, reprimands and the fines, and expunging from the individuals records any reference to the charges, reprimands or the fines. As the evidence establishes that no portion of the fine imposed on Anselone was paid, no remedy is required therein.

On these findings of fact, conclusions of law and on the entire record, I issue the following recommended³

ORDER

The Respondents, Chicago Regional Council of Carpenters, Local Union No. 363 of the United Brotherhood of Carpenters and Joiners of America, Local Union No. 916 of the United Brotherhood of Carpenters and Joiners of America, and Local No. 250 of the United

³ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

Brotherhood of Carpenters and Joiners of America, its officers, agents and representatives shall

1. Cease and desist from

5 (a) Filing and pursuing internal union charges against individuals, or otherwise disciplining or threatening to discipline them because they worked behind a union picket line for a non-union employer, when the individuals previously made a good faith effort to withdraw or resign their membership in the union.

10 (b) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

15 (a) Rescind, and expunge from its books and records, all references to the internal union charges filed against Anselone, Heinle and Bulgrin, as well as the fines imposed on Anselone and the letter of reprimand addressed to Heinle, and notify these individuals, in writing, within 30 days from the date of this Decision that it has done so.

20 (b) Within 14 days after service by the Region, post at its union offices copies of the attached notice marked "Appendix."⁴ Copies of the notice, on forms provided by the Regional Director for Region 13, after being signed by the Respondents' authorized representatives, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. Reasonable steps shall
25 be taken by the Respondents to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, any of the Respondents ceased operations or closed an office involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current and former members of the Respondent at any time since February 2, 2009.

30 (c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

35 **Dated, Washington, D.C., July 1, 2010.**

Joel P. Biblowitz
Administrative Law Judge

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50 ⁴ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO MEMBERS

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this Notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain on your behalf with your employer
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT file internal union charges against members or non-members, or otherwise fine or discipline them, or threaten to discipline them, because they worked for a non-union employer behind our picket lines, when these individuals previously made a good faith effort to resign, or withdraw from, the union.

WE WILL NOT in any like or related manner, interfere with, restrain or coerce you in the exercise of your rights guaranteed by Section 7 of the Act.

WE WILL rescind, and expunge from our books and records, all references to the internal union charges filed against August Anselone and Gerald Heinle, as well as the fine assessed against Anselone and the letter of reprimand addressed to Heinle, and **WE WILL** notify these individuals, in writing, within 30 days of this Decision that we have done so.

CHICAGO REGIONAL COUNCIL OF CARPENTERS
(Respondent)

Dated _____ **By** _____
(Representative) **(Title)**

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

209 South LaSalle Street, Suite 900

Chicago, Illinois 60604-1219

Hours: 8:30 a.m. to 5 p.m.

312-353-7570.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 312-353-7170.

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WE WILL rescind, and expunge from our books and records, all references to the internal union charges filed against August Anselone, and **WE WILL** notify him, in writing, within 30 days of this Decision that we have done so.

LOCAL UNION NO. 363 OF THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

Dated _____ By _____
(Representative) (Title)

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WE WILL rescind, and expunge from our books and records, all references to the internal union charges filed against August Anselone and Gerald Heinle, and **WE WILL** notify these individuals, in writing, within 30 days of this Decision that we have done so.

LOCAL UNION NO. 916 OF THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

Dated _____ By _____
(Representative) (Title)

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WE WILL NOT in any like or related manner, interfere with, restrain or coerce you in the exercise of your rights guaranteed by Section 7 of the Act.

WE WILL rescind, and expunge from our books and records, all references to the internal union charges filed against Daniel Bulgrin, and **WE WILL** notify him, in writing, within 30 days of this Decision that we have done so.

LOCAL UNION NO. 250 OF THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

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